

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

RICARDO A. DE LOS SANTOS MORA, :
 :
 Plaintiff, :
 :
 v. : Civil Action No. 06-46-JJF
 :
 A. SCOTT DAVIS and HARRINGTON :
 POLICE DEPARTMENT, :
 :
 Defendants. :

ORDER

WHEREAS, Defendant Harrington Police Department ("Harrington P.D.") has filed a Motion To Dismiss¹ (D.I. 41) pursuant to Fed. R. Civ. P. 12(b)(6);

WHEREAS, in support of its motion, Harrington P.D. contends that Plaintiff has failed to state a claim against it and that Plaintiff's claims are barred by the applicable statute of limitations;²

WHEREAS, former defendant M. Jane Brady filed a similar motion to dismiss (D.I. 21) raising the same grounds for dismissal, which the Court granted on March 30, 2007 (D.I. 40);

WHEREAS, in dismissing Plaintiff's claims against M. Jane Brady, the Court noted that, though Plaintiff alleged he was a

¹ Harrington P.D. captioned the present motion as a "Motion For Summary Judgment," but at all other times referred to it as a motion to dismiss. Because it is apparent that the caption was in error, the Court will construe the motion as a Motion To Dismiss, as Harrington P.D. intended.

² While it appears that Plaintiff's claims are time-barred, the Court is focusing the grounds for dismissal on Plaintiff's failure to state a claim against Harrington P.D.

victim of a tort committed in violation of the Vienna Convention, he had failed to allege causation and damages because the criminal charges filed against him would have continued regardless of whether Plaintiff was provided with consular notice (see D.I. 39);

WHEREAS, the Court finds that Plaintiff's claims against Harrington P.D. suffer from the same defect and therefore fail to allege causation and damages, which are two elements necessary to state a claim;

NOW THEREFORE IT IS HEREBY ORDERED that Defendant Harrington Police Department's Motion To Dismiss (D.I. 41) is GRANTED.

July 10, 2007
DATE


UNITED STATES DISTRICT JUDGE